

Message Text

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USIA-15 ACDA-19 IO-13 SY-10 USSS-00 EB-11 DOTE-00

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TO AMEMBASSY TOKYO PRIORITY

UNCLAS STATE 184533

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SUBJECT: CONVENTION ON PROTECTION OF DIPLOMATS

REF: STATE 184358

FOR EMBASSY'S USE IN DISCUSSIONS WITH MFA AND MINISTRY OF JUSTICE PER REFTTEL, FOLLOWING IS TEXT OF ILC DRAFT CONVENTION ON THE PROTECTION OF DIPLOMATS.

ARTICLE 1

FOR THE PURPOSES OF THE PRESENT ARTICLES:

1. "INTERNATIONALLY PROTECTED PERSON" MEANS:

(A) A HEAD OF STATE OR A HEAD OF GOVERNMENT, WHENEVER HE IS IN A FOREIGN STATE, AS WELL AS MEMBERS OF HIS FAMILY WHO ACCOMPANY HIM;

(B) ANY OFFICIAL OF EITHER A STATE OR AN INTERNATIONAL ORGANIZATION WHO IS ENTITLED, PURSUANT TO GENERAL INTERNATIONAL LAW OR AN INTERNATIONAL AGREEMENT, TO SPECIAL PROTECTION FOR OR BECAUSE OF THE PERFORMANCE OF FUNCTIONS ON UNCLASSIFIED

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BEHALF OF HIS STATE OR INTERNATIONAL ORGANIZATION, AS WELL AS MEMBERS OF HIS FAMILY WHO ARE LIKEWISE ENTITLED TO SPECIAL PROTECTION.

2. "ALLEGED OFFENDER" MEANS A PERSON AS TO WHOM THERE

ARE GROUNDS TO BELIEVE THAT HE HAS COMMITTED ONE OR MORE OF THE CRIMES SET FORTH IN ARTICLE 2.

3. "INTERNATIONAL ORGANIZATION" MEANS AN INTERGOVERNMENTAL ORGANIZATION.

ARTICLE 2

1. THE INTENTIONAL COMMISSION, REGARDLESS OF MOTIVE, OF:

(A) A VIOLENT ATTACK UPON THE PERSON OR LIBERTY OF AN INTERNATIONALLY PROTECTED PERSON;

(B) A VIOLENT ATTACK UPON THE OFFICIAL PREMISES OR THE PRIVATE ACCOMMODATION OF AN INTERNATIONALLY PROTECTED PERSON LIKELY TO ENDANGER HIS PERSON OR LIBERTY;

(C) A THREAT TO COMMIT ANY SUCH ATTACK;

(D) AN ATTEMPT TO COMMIT ANY SUCH ATTACK; AND

(E) PARTICIPATION AS AN ACCOMPLICE IN ANY SUCH ATTACK, SHALL BE MADE BY EACH STATE PARTY A CRIME UNDER ITS INTERNAL LAW, WHETHER THE COMMISSION OF THE CRIME OCCURS WITHIN OR OUTSIDE OF ITS TERRITORY.

2. EACH STATE PARTY SHALL MAKE THESE CRIMES PUNISHABLE BY SEVERE PENALTIES WHICH TAKE INTO ACCOUNT THE AGGRAVATED NATURE OF THE OFFENSE.

3. EACH STATE PARTY SHALL TAKE SUCH MEASURES AS MAY BE NECESSARY TO ESTABLISH ITS JURISDICTION OVER THESE CRIMES.

ARTICLE 3

STATES PARTY SHALL COOPERATE IN THE PREVENTION OF THE CRIMES SET FORTH IN ARTICLE 2 BY:

(A) TAKING MEASURES TO PREVENT THE PREPARATION IN THEIR RESPECTIVE TERRITORIES FOR THE COMMISSION OF THOSE CRIMES EITHER IN THEIR OWN OR IN OTHER TERRITORIES;

(B) EXCHANGING INFORMATION AND COORDINATING THE TAKING OF ADMINISTRATIVE MEASURES TO PREVENT THE COMMISSION OF THOSE CRIMES.

ARTICLE 4

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THE STATE PARTY IN WHICH ONE OR MORE OF THE CRIMES SET FORTH IN ARTICLE 2 HAVE BEEN COMMITTED SHALL, IF IT HAS REASON TO BELIEVE AN ALLEGED OFFENDER HAS FLED FROM ITS TERRITORY, COMMUNICATE TO ALL OTHER STATES PARTY ALL THE PERTINENT FACTS REGARDING THE CRIME COMMITTED AND ALL AVAILABLE INFORMATION REGARDING THE IDENTITY OF THE ALLEGED OFFENDER.

ARTICLE 5

1. THE STATE PARTY IN WHOSE TERRITORY THE ALLEGED OFFENDER IS PRESENT SHALL TAKE THE APPROPRIATE MEASURES UNDER ITS INTERNAL LAW SO AS TO ENSURE HIS PRESENCE FOR PROSECUTION OR EXTRADITION. SUCH MEASURES SHALL BE

IMMEDIATELY NOTIFIED TO THE STATE WHERE THE CRIME WAS COMMITTED, THE STATE OR STATES OF WHICH THE ALLEGED OFFENDER IS A NATIONAL, THE STATE OR STATES OF WHICH THE

INTERNATIONALLY PROTECTED PERSON CONCERNED IS A NATIONAL AND ALL INTERESTED STATES.

2. ANY PERSON REGARDING WHOM THE MEASURES REFERRED TO IN PARAGRAPH 1 OF THIS ARTICLE ARE BEING TAKEN SHALL BE ENTITLED TO COMMUNICATE IMMEDIATELY WITH THE NEAREST APPROPRIATE REPRESENTATIVE OF THE STATE OF WHICH HE IS A NATIONAL AND TO BE VISITED BY A REPRESENTATIVE OF THAT STATE.

ARTICLE 6

THE STATE IN WHOSE TERRITORY THE ALLEGED OFFENDER IS PRESENT SHALL, IF IT DOES NOT EXTRADITE HIM, SUBMIT, WITHOUT EXCEPTION WHATSOEVER AND WITHOUT UNDUE DELAY, THE CASE TO ITS COMPETENT AUTHORITIES FOR THE PURPOSE OF PROSECUTION, THROUGH PROCEEDINGS IN ACCORDANCE WITH THE LAWS OF THAT STATE.

ARTICLE 7

1. TO THE EXTENT THAT THE CRIMES SET FORTH IN ARTICLE 2 ARE NOT LISTED AS EXTRADITABLE OFFENSES IN ANY EXTRADITION TREATY EXISTING BETWEEN STATES PARTY THEY SHALL BE DEEMED TO HAVE BEEN INCLUDED AS SUCH THEREIN. STATES PARTY UNDERTAKE TO INCLUDE THOSE CRIMES AS EXTRADITABLE

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OFFENSES IN EVERY FUTURE EXTRADITION TREATY TO BE INCLUDED BETWEEN THEM.

2. IF A STATE PARTY WHICH MAKES EXTRADITION CONDITIONAL ON THE EXISTENCE OF A TREATY RECEIVES A REQUEST FOR EXTRADITION FROM ANOTHER STATE PARTY WITH WHICH IT HAS NO EXTRADITION TREATY, IT MAY, IF IT DECIDES TO EXTRADITE, CONSIDER THE PRESENT ARTICLES AS THE LEGAL BASIS FOR EXTRADITION IN RESPECT OF THE CRIMES. EXTRADITION SHALL BE SUBJECT TO THE PROCEDURAL PROVISIONS OF THE LAW OF THE REQUESTED STATE.

3. STATES PARTY WHICH DO NOT MAKE EXTRADITION CONDITIONAL ON THE EXISTENCE OF A TREATY SHALL RECOGNIZE THE CRIMES AS EXTRADITABLE OFFENSES BETWEEN THEMSELVES SUBJECT TO THE PROCEDURAL PROVISIONS OF THE LAW OF THE REQUESTED STATE.

4. AN EXTRADITION REQUEST FROM THE STATE IN WHICH THE CRIMES WERE COMMITTED SHALL HAVE PRIORITY OVER OTHER SUCH REQUESTS IF RECEIVED BY THE STATE PARTY IN WHOSE TERRITORY THE ALLEGED OFFENDER HAS BEEN FOUND WITHIN SIX MONTHS AFTER THE COMMUNICATION REQUIRED UNDER PARAGRAPH 1 OF ARTICLE 5 HAS BEEN MADE.

ARTICLE 8

ANY PERSON REGARDING WHOM PROCEEDINGS ARE BEING CARRIED OUT IN CONNECTION WITH ANY OF THE CRIMES SET

FORTH IN ARTICLE 2 SHALL BE GUARANTEED FAIR TREATMENT AT ALL STAGES OF THE PROCEEDINGS.

ARTICLE 9

THE STATUTORY LIMITATION AS TO THE TIME WITHIN WHICH PROSECUTION MAY BE INSTITUTED FOR THE CRIMES SET FORTH IN ARTICLE 2 SHALL BE, IN EACH STATE PARTY, THAT FIXED FOR THE MOST SERIOUS CRIMES UNDER ITS INTERNAL LAW.

ARTICLE 10

1. STATES PARTY SHALL AFFORD ONE ANOTHER THE GREATEST MEASURE OF ASSISTANCE IN CONNECTION WITH CRIMINAL PROCEEDINGS BROUGHT IN RESPECT OF THE CRIMES SET FORTH IN ARTICLE 2, INCLUDING THE SUPPLY OF ALL EVIDENCE AT THEIR UNCLASSIFIED

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DISPOSAL NECESSARY FOR THE PROCEEDINGS.

2. THE PROVISIONS OF PARAGRAPH 1 OF THIS ARTICLE SHALL NOT AFFECT OBLIGATIONS CONCERNING MUTUAL JUDICIAL ASSISTANCE EMBODIED IN ANY OTHER TREATY.

ARTICLE 11

THE FINAL OUTCOME OF THE LEGAL PROCEEDINGS REGARDING THE ALLEGED OFFENDER SHALL BE COMMUNICATED BY THE STATE PARTY WHERE THE PROCEEDINGS ARE CONDUCTED TO THE SECRETARY-GENERAL OF THE UNITED NATIONS, WHO SHALL TRANSMIT THE INFORMATION TO THE OTHER STATES PARTY.

ARTICLE 12

(ALTERNATIVE PROVISIONS FOR SETTLEMENT OF DISPUTES.)
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